

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AIG PROPERTY CASUALTY COMPANY ,

V.

SUMMONS IN A CIVIL CASE

NIBCO, INC. , ET AL. ,

CASE NO: 2:20-CV-00197-JAM-EFB

TO: Michael Diaz, MD Mechanical
Defendant's Address:

YOU ARE HEREBY SUMMONED and required to serve on

Timothy J. Ryan
Ryan Law Group
400 Capitol Mall, Suite 2540
Sacramento, CA 95814

an answer to the complaint which is served on you with this summons, within 21 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

KEITH HOLLAND

CLERK

/s/ A. Kastilahn

(By) DEPUTY CLERK



ISSUED ON 2020-02-06 08:23:41.0 , Clerk
USDC EDCA

~~Case 2:20-cv-00197-JAM-EFB Document 6 Filed 02/06/20 Page 2 of 2~~**RETURN OF SERVICE**

Service of the Summons and complaint was made by me (1)

DATE

NAME OF SERVER (PRINT)

TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
- ☐ Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____
- ☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

Date

Signature of Server

Address of Server

TIMOTHY J. RYAN (99542)
REBEKKA R. MARTORANO (173600)
THE RYAN LAW GROUP
400 Capitol Mall, Suite 2540
Sacramento, California 95814
Telephone: (916) 924-1912
Facsimile: (916) 923-3872
tryan@ryanlg.com
rmartorano@ryanlg.com

Attorneys for Defendants and Third-Party Plaintiffs
NIBCO, INC. and WESTERN NEVADA SUPPLY CO.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**AIG PROPERTY CASUALTY
COMPANY**

Plaintiff,

v.

**NIBCO, INC.; WESTERN NEVADA
SUPPLY; and DOES 1 to 25, inclusive,**

Defendants.

**NIBCO, INC. AND WESTERN NEVADA
SUPPLY CO.,**

Third-Party Plaintiffs,

v.

**MD MECHANICAL; MICHAEL DIAZ,
and ROES 1 to 25, inclusive,**

Third-Party Defendants.

Case No. 2:20-CV-00197-JAM-EFB

**DEFENDANTS NIBCO, INC. AND
WESTERN NEVADA SUPPLY CO.'S
THIRD-PARTY COMPLAINT FOR
INDEMNITY**

COME NOW Defendants NIBCO, Inc. and Western Nevada Supply Co. ("Third-Party Plaintiffs") and bring this Third-Party Complaint for indemnity against MD Mechanical, Michael

**DEFENDANTS NIBCO, INC. AND WESTERN NEVADA SUPPLY CO.'S
THIRD-PARTY COMPLAINT FOR INDEMNITY**

1 Diaz and ROES 1 through 25, and allege as follows:

2 1. Third-Party Plaintiff NIBCO, Inc. is, and was at all times herein mentioned, a
3 corporation organized and existing under the laws of the State of Indiana, with its principal place
4 of business in Elkhart, Indiana and Third-Party Plaintiff Western Nevada Supply Co. is, and was
5 at all times mentioned, a corporation organized and existing under the laws of the State of
6 Nevada, with its principal place of business in Sparks, Nevada. Said parties are hereinafter
7 referred to collectively as "Third-Party Plaintiffs."

8 2. Third-Party Defendant MD Mechanical is, and was at all times herein mentioned, a
9 business organization, form unknown.

10 3. Third-Party Defendant Michael Diaz is, and was at all times herein mentioned, an
11 individual and resident of California.

12 4. Third-Party Defendants ROES 1 through 25, inclusive, are sued herein under fictitious
13 names. The true names and capacities are unknown to Third-Party Plaintiffs. When their true
14 names and capacity are ascertained, Third-Party Plaintiffs will amend this Third-Party Complaint
15 by inserting their true names and capacities herein. Third-Party Plaintiffs are informed and
16 believe and thereon allege that each of the fictitiously named Third-Party Defendants are
17 responsible in some manner for the occurrences herein alleged, and that Third-Party Plaintiffs'
18 damages as herein alleged were proximately caused by those Third-Party Defendants. Each
19 reference in this Third-Party Complaint to "Third-Party Defendant," or "Third-Party
20 Defendants," or a specifically named Third-Party Defendant refers also to all Third-Party
21 Defendants sued under fictitious names.

22 5. Each Third-Party Defendant is, and was at all times relevant, the agent, servant, and
23 employee of each of the other Third-Party Defendants. Each Third-Party Defendant committed
24 the acts herein alleged in the course and scope of such agency, servanthood, and employment,
25 under the direction and control of, for the benefit of, at the instance, request and behest of each
26 of the other Third-Party Defendants, who each ratified and confirmed the acts of each of the
27 other Third-Party Defendants. Third-Party Plaintiffs are unaware at this time of the exact nature
28

1 of all of the relationships among the Third-Party Defendants, but when such are made known to
2 Third-Party Plaintiffs, will amend this Third-Party Complaint accordingly.

3 6. Third-Party Plaintiffs refer to the Complaint in the action entitled AIG Property
4 Casualty Company v. NIBCO, Inc., Superior Court of the State of California for the County of
5 Placer Case No. SCV004420 filed December 19, 2019 ("the Complaint") and, without admitting
6 any of the allegations contained therein, by this reference incorporate said allegations as though
7 fully set forth herein.

8 **FIRST CAUSE OF ACTION**

9 **(For Equitable Indemnity against Third-Party Defendants)**

10 7. Third-Party Plaintiffs incorporate by this reference all preceding paragraphs as though
11 fully set forth at length herein.

12 8. By virtue of the doctrine of Equitable Implied Indemnity, Third-Party Plaintiffs are
13 faced with a potential loss, which in good conscience, equity, and justice they would not be faced
14 with absent of the conduct of Third-Party Defendants MD Mechanical, Michael Diaz, and ROES
15 1 through 25, and each of them. If the allegations of the Complaint filed by Plaintiff AIG
16 Property Casualty Company ("Plaintiff") are found to be true, the responsibility, if any, of Third-
17 Party Plaintiffs, or either of them, for the alleged damage and injuries of Plaintiff, if any, should
18 be reduced based upon the proportionate share of fault as compared with that of Third-Party
19 Defendants and each of them.

20 WHEREFORE, Third-Party Plaintiffs pray for judgment against Third-Party Defendants
21 MD Mechanical, Michael Diaz and ROES 1 through 25, and each of them, as follows:

22 1. That if Third-Party Plaintiffs, or either of them, is held responsible for judgment in
23 favor of Plaintiff, that judgment be rendered in the same amount against Third-Party Defendants
24 MD Mechanical, Michael Diaz and ROES 1 through 25, and each of them and in favor of Third-
25 Party Plaintiffs herein;

26 2. For an order of the Court that Third-Party Plaintiffs are entitled to be fully indemnified
27 by Third-Party Defendants MD Mechanical, Michael Diaz and ROES 1 through 25, and each of
28

1 them, for any and all settlements or compromises entered into by Third-Party Plaintiffs;

2 3. For reasonable attorneys' fees, pursuant to California Code of Civil Procedure, section
3 1021.6, and any and all other reasonable expenses incurred in connection with the defense of the
4 action filed by Plaintiff;

5 4. For costs of suit incurred herein; and

6 5. For such other and further relief as the court may deem just and proper.

7
8 Dated: February 3, 2020

THE RYAN LAW GROUP

9
10 By: /s/ Timothy J. Ryan

TIMOTHY J. RYAN

11 REBEKKA R. MARTORANO

12 Attorneys for Defendants and Third-Party
13 Plaintiffs NIBCO, INC. and WESTERN
14 NEVADA SUPPLY CO.
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Case 2:20-at-00087 Document 1 Filed 01/27/20 Page 1 of 2

CIVIL COVER SHEET

JS 44 (Rev. 02/19)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (A) PLAINTIFFS

AIG Property Casualty Company

(b) County of Residence of First Listed Plaintiff New York

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Maura Ochoa; David Kestenbaum; (415) 344-9670

GROTEFELD HOFFMAN LLP

700 Larkspur Landing Circle, Ste 280, Larkspur, CA 94939

DEFENDANTS

NBCO, INC. and Western Nevada Supply Co.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Timothy J. Ryan; Rebekka R. Martorano; (916) 924-1912

THE RYAN LAW GROUP

400 Capitol Mall, St. 2540, Sacramento, CA 95814

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Plaintiff DEF
Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☒ 3 ☒ 3
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 197 Contract Product Liability <input type="checkbox"/> 198 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Aerospace Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input checked="" type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 138 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 463 Alien Detainees <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detention - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 373 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 930 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (Specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity);

28 U.S.C. Section 1441(b)

Brief description of cause:

Property damage to private home

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/27/2020

SIGNATURE OF ATTORNEY OF RECORD

Maura Ochoa

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAO JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation - Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation - Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute; 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

TIMOTHY J. RYAN (99542)
REBEKKA R. MARTORANO (173600)
THE RYAN LAW GROUP
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rmartorano@ryanlg.com

Attorneys for Defendants NIBCO, INC. and
WESTERN NEVADA SUPPLY CO.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**AIG PROPERTY CASUALTY
COMPANY**

Plaintiff,

v.

**NIBCO, INC.; WESTERN NEVADA
SUPPLY; and DOES 1 to 25, inclusive,**

Defendants.

Case No.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(b);
DECLARATION OF REBEKKA R.
MARTORANO; DEMAND FOR JURY
TRIAL**

Complaint Filed: December 19, 2019

TO THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE that NIBCO, INC. and WESTERN NEVADA SUPPLY CO.
("Defendants") hereby remove to this Court the state court action described below.

1. On December 19, 2019, an action was commenced in the Superior Court of the State of
California in and for the County of Placer, entitled AIG Property Casualty Company v.
NIBCO, Inc., Western Nevada Supply, and DOES 1 to 25, inclusive as Case No.

SCV0044205. A copy of the Complaint is attached hereto as Exhibit A.

2. The dates on which Defendants first received a copy of the Complaint are as follows:

NIBCO, Inc. received a copy of the Complaint and a summons from the state court on or

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(B); DECLARATION OF REBEKKA R.
MARTORANO; DEMAND FOR JURY TRIAL**

1 about January 3, 2020 and Western Nevada Supply Co. received a copy of the Complaint
2 and a summons from the state court on or about January 7, 2020. Copies of both
3 summonses are attached hereto as Exhibit B.

4 3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C.
5 §1332, and is one which may be removed to this Court pursuant to the provisions of 28
6 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the
7 matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8 4. Defendants are informed and believe that Plaintiff is a corporation incorporated in the
9 State of Pennsylvania having its principal place of business in the State of New York.
10 Defendant NIBCO, Inc. was at the time of filing of this action, and still is, a corporation
11 incorporated under the laws of the State of Indiana, having its principal place of business
12 in the State of Indiana. Defendant Western Nevada Supply Co. was at the time of filing of
13 this action, and still is, a corporation incorporated under the laws of the State of Nevada,
14 having its principal place of business in the State of Nevada.

15 5. Defendants are informed and believe that the matter in controversy exceeds the sum of
16 \$75,000, exclusive of interest and costs on the basis that Plaintiff has provided
17 Defendants with a damage summary and documentation reflecting alleged damages in the
18 amount of \$2,883,625.65 arising from an alleged water loss and resulting damage to a
19 private home located in Tahoe City, California.
20

21 Dated: January 27, 2020

THE RYAN LAW GROUP

22
23 By: /s/ Rebekka R. Martorano

24 TIMOTHY J. RYAN
25 REBEKKA R. MARTORANO
26 Attorneys for Defendants
27 NIBCO, INC. and WESTERN
28 NEVADA SUPPLY CO.

DECLARATION OF REBEKKA R. MARTORANO

I, Rebekka R. Martorano, declare:

1. I am an attorney at law licensed to practice before all Courts of the State of California and the United States District Court, Eastern District of California. I am counsel of record for Defendants in this action. I am personally familiar with the facts stated herein. I make this Declaration in support of Defendants NIBCO, Inc. and Western Nevada Supply Co.'s Notice of Removal of Action.
2. Attached hereto as Exhibit A is a true and correct copy of the complaint filed in the Superior Court of the State of California in and for the County of Placer, commencing the action entitled AIG Property Casualty Company v. NIBCO, Inc., Western Nevada Supply, and DOES 1 to 25, inclusive.
3. I am informed and believe that the first date upon which NIBCO, Inc. received a copy of the complaint was January 3, 2020, when NIBCO, Inc. received by mail a copy of the complaint and a summons from the state court. I am informed and believe that the first date when Western Nevada Supply Co. received a copy of the complaint was January 7, 2020, when Western Nevada Supply Co. received by mail a copy of the complaint and summons from the state court. Attached hereto as Exhibit B is a true and correct copy of both summonses.
4. I am is informed and believe that Plaintiff is a corporation incorporated in the State of Pennsylvania having its principal place of business in the State of New York. Defendant NIBCO, Inc. was at the time of filing of this action, and still is, a corporation incorporated under the laws of the State of Indiana, having its principal place of business in the State of Indiana. Defendant Western Nevada Supply Co. was at the time of filing of this action, and still is, a corporation incorporated under the laws of the State of Nevada, having its principal place of business in the State of Nevada.

/s/ Rebekka R. Martorano
REBEKKA R. MARTORANO

JURY DEMAND

Defendants NIBCO, INC. and WESTERN NEVADA SUPPLY CO. hereby demand a trial by jury in this action.

Dated: January 27, 2020

THE RYAN LAW GROUP

By: /s/ Rebekka R. Martorano
TIMOTHY J. RYAN
REBEKKA R. MARTORANO
Attorneys for Defendants
NIBCO, INC. and WESTERN
NEVADA SUPPLY CO.

EXHIBIT A

1 Maura Walsh Ochoa (SBN 193799)
2 David Kestenbaum (SBN 253749)
3 GROTEFELD HOFFMANN LLP
4 700 Larkspur Landing Circle, Suite 280
5 Larkspur, CA 94939
6 Telephone: 415.344.9670
7 Facsimile: 415.989.2802

8 Attorneys for Plaintiff
9 AIG PROPERTY CASUALTY COMPANY A/S/O KEVIN DOUGLAS AND MICHELLE
10 DOUGLAS

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF PLACER

13 AIG PROPERTY CASUALTY COMPANY

14 Plaintiff,

15 vs.

16 NIBCO, INC.; WESTERN NEVADA
17 SUPPLY; and DOES 1 through 25, inclusive,

18 DEFENDANTS.

Case No.:

SCV004420⁵

COMPLAINT FOR PROPERTY
DAMAGE

19 NOW COMES Plaintiff AIG PROPERTY CASUALTY COMPANY ("AIG") by and
20 through its attorneys GROTEFELD HOFFMANN and for its Complaint against DEFENDANTS
21 NIBCO, INC. ("NIBCO"); WESTERN NEVADA SUPPLY ("WESTERN NEVADA"); and
22 DOES 1 through 25, (collectively "DEFENDANTS") and allege that at all pertinent times herein
23 upon information and belief as follows:

24 THE PARTIES

25 1. Plaintiff AIG PROPERTY CASUALTY COMPANY ("AIG") was and is an
26 insurance carrier licensed to conduct and transact business in the State of California as an
27 insurance company At all relevant times, Plaintiff AIG provided policies of insurance to its
28

Complaint for Property Damage

BY FAX

1 insureds, Kevin Douglas and Michelle Douglas ("the INSUREDS"), for their property, located at
2 2380 Sunnyside Lane, Tahoe City, California.

3 2. At all relevant times, Defendant NIBCO, INC. was and is a manufacturer, supplier,
4 And/or distributor of plumbing supplies and accessories including water valves authorized to
5 conduct and transact business in the State of California.

6 3. At all relevant times, Defendant WESTERN NEVADA was and is a distributor for
7 plumbing supplies and accessories and operated as a supplier and seller of such products.
8 WESTERN NEVADA was authorized to conduct and transact business in the State of California.

9 4. DEFENDANTS DOES One (1) through Twenty-five (25), inclusive, are unknown to
10 Plaintiff who therefore sues said DEFENDANTS by such fictitious names. Plaintiff is informed
11 and believes and thereon alleges that each of the DEFENDANTS designated herein as DOE is
12 legally responsible in some manner for the events and happenings referred to herein. Plaintiff
13 will seek leave to amend this Complaint when the true names and capacities of DEFENDANTS
14 sued as DOES One (1) through Twenty-five (25) are ascertained.

15 5. Plaintiff is informed and believes that, at all pertinent times, DEFENDANTS were the
16 agents and employees of their co-DEFENDANTS and in doing the things alleged in this
17 Complaint were acting within the course and scope of that agency and employment.

18
19 GENERAL ALLEGATIONS

20 6. At all relevant times, the INSUREDS owned real and personal property located at
21 2380 Sunnyside Lane, Tahoe City, California ("SUBJECT PROPERTY").

22 7. This action arises out of a water loss and resulting damage at the SUBJECT
23 PROPERTY, which occurred on or about January 13, 2017 (the "INCIDENT").

24 8. Investigation determined that a NIBCO branded water valve (the "VALVE"), sold as
25 part number "NBIC S1710 CB 1 SWT BAL VLV", made, supplied, distributed, sold, branded,
26 and/or placed into the stream of commerce by NIBCO, failed causing water damage to the
27 SUBJECT PROPERTY.

28 9. At all relevant times, the VALVE was used in a customary, normal, and

1 foreseeable manner by Plaintiff's INSUREDS.

2 10. At all relevant times, NIBCO designed, approved, recommended, manufactured,
3 assembled, built, tested, inspected, marketed, distributed, contracted for manufacture and/or
4 distribution, and/or sold the water valve and/or component parts, such as the one owned and used
5 by the INSUREDS.

6 11. At all relevant times, the VALVE was marked and embossed with the "NIBCO"
7 name and was marketed, sold, distributed, and/or supplied as a "NIBCO" product.

8 12. The water loss was determined to have been caused by the "NIBCO" VALVE, which
9 was defective and unfit for its intended use.

10 13. Upon information and belief, the INCIDENT occurred due to a defect in the VALVE
11 which resulted in an uncontrolled release of water at the SUBJECT PROPERTY.

12 14. Upon information and belief, the subject VALVE was purchased at and sold by
13 WESTERN NEVADA for installation at the SUBJECT PROPERTY.

14 15. The INCIDENT caused extensive damage to the SUBJECT PROPERTY and resulted
15 in expenses related to repair of the structure, replacement and cleaning of the contents in the
16 dwelling and related additional living expenses incurred by the INSUREDS as well as additional
17 damages to be proven at trial.

18 16. Pursuant to their policy of insurance with AIG, the INSUREDS made a claim
19 seeking indemnification and reimbursement for damages resulting from the INCIDENT.
20 Accordingly, AIG was required to and did pay its INSUREDS the amount of \$2,883,125.65 for
21 damages resulting from the INCIDENT.

22 17. In consideration of AIG's payments, the INSUREDS subrogated to AIG all rights,
23 claims and interests that they may have against any person or entity that may be liable for
24 causing the reimbursed damages that resulted from the INCIDENT

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FIRST CAUSE OF ACTION

(Negligence against DEFENDANTS NIBCO, INC., WESTERN NEVADA SUPPLY and
DOES 1 through 25, and Each of Them)

18. Plaintiff incorporates by reference the allegations of Paragraphs One (1) through
Seventeen (17) of this Complaint as though fully set forth herein.

19. At all relevant times, DEFENDANTS NIBCO, WESTERN NEVADA and DOES
1 through 25, and each of them, were under a duty to exercise reasonable care to avoid exposing
the INSUREDS and their property to a foreseeable risk of harm.

20. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and
each of them, knew or should have known that failure to properly design, manufacture, test,
and/or inspect the VALVE and/or component parts, increases the risk of water loss to the
INSUREDS' property should the VALVE and/or component parts fail.

21. Notwithstanding said duties, DEFENDANTS NIBCO, WESTERN NEVADA and
DOES 1 through 25, and each of them, were guilty of one or more of the following acts or
omissions:

- 1) Carelessly and negligently failed to properly design the VALVE and/or
component parts;
- 2) Carelessly and negligently failed to properly manufacture the VALVE and/or
component parts;
- 3) Carelessly and negligently failed to properly inspect the VALVE and/or
component parts;
- 4) Carelessly and negligently failed to properly test the VALVE and/or
component parts;
- 5) Carelessly and negligently failed to select materials fit for their intended use
in the VALVE and/or component parts;
- 6) Careless and negligently placed a defective VALVE into the stream of
commerce; and;
- 7) Were otherwise careless and negligent in the design, manufacture, inspection,

1 and testing of the VALVE and/or component parts.

2 22. The negligence of DEFENDANTS NIBCO, WESTERN NEVADA, and DOES 1
3 through 25, and each of them, was a substantial factor in damaging the INSUREDS' property.

4 23. As a direct and proximate result of the DEFENDANTS' negligence, Plaintiff suffered
5 damages, including costs of repair, construction, content replacement, associated living expenses
6 and property damage in the amount of Two Million Eight Hundred Eighty-Three Thousand One
7 Hundred Twenty Five Dollars and 65/100 (\$2,883,125.65), together with costs, interest,
8 expenses and reasonable attorneys' fees allowed by law.

9 **SECOND CAUSE OF ACTION**

10 **(Strict Products Liability against DEFENDANTS NIBCO, WESTERN NEVADA SUPPLY**
11 **and DOES 1 through 25, and Each of Them)**

12 24. Plaintiff incorporates by reference the allegations of paragraph One (1) through
13 Twenty-Three (23) of this Complaint as though fully set forth herein.

14 25. At all relevant times, DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1
15 through 25, and each of them, were in the business of designing, manufacturing, assembling,
16 testing, advertising, marketing, distributing, selling, servicing, and/or placing products into the
17 stream of commerce such as water valves and associated plumbing supplies, such as the VALVE
18 and/or component parts used by the INSUREDS at the SUBJECT PROPERTY.

19 26. The VALVE and/or component parts, were expected to reach the general
20 public and consumers in the condition in which it was designed, manufactured, assembled,
21 tested, marketed, distributed, supplied, merchandised, advertised, branded, and/or sold.

22 27. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25 knew or had
23 reason to know that the purchaser and user of the VALVE would rely on the skill and judgment
24 of the DEFENDANTS in their sale, manufacture, and distribution of the VALVE and that the
25 VALVE and/or component parts would be used by consumers without inspection for defects.

26 28 DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25 had a
27 duty not to manufacture, sell, and/or supply products, including the products in question, in a
28 defective condition that was unreasonably dangerous when used in a reasonably foreseeable way.

1 29. At all relevant times, the VALVE and/or component parts were used in a
2 reasonably foreseeable way.

3 30. The VALVE and/or component parts were defective at the time they left
4 DEFENDANTS' exclusive possession and control in one or more of the following ways:

- 5 1) The VALVE and/or component parts were defective in their design in that
6 they did not perform as intended and in fact failed;
- 7 2) The VALVE and/or component parts contained manufacturing defects in that
8 they differed from the manufacturer's design or specifications or from
9 typical units of the same product line;
- 10 3) The materials accompanying the VALVE and/or component parts failed to
11 adequately warn consumers of possible water losses;
- 12 4) The VALVE and/or component parts were designed, manufactured, and/or
13 assembled with materials insufficient for foreseeable use;
- 14 5) The VALVE and/or component parts were otherwise designed, manufactured,
15 sold, supplied, and distributed in such a way as to introduce into the stream of
16 commerce and provide its intended users with an unreasonably dangerous and
17 defective product.

18 31. DEFENDANTS NISCO, WESTERN NEVADA and DOES 1 through 25, failed to
19 provide a non-defective and safe product by failing to properly design, manufacture, style,
20 assemble, install, construct, advertise, promote, import, sell and distribute, warn, recall, and/or
21 take all other necessary reasonable precautions to prevent possible water losses.

22 32. Said defects, failure to provide a safe and non-defective product, and/or take all other
23 necessary precautions to prevent such water loss was a substantial factor in causing extensive
24 damage to the property owned by the INSUREDs as a result of the water loss as alleged herein.

25 33. As a direct and proximate result of the DEFENDANTS' defective product being
26 introduced into the stream of commerce, Plaintiff suffered damages, including costs of repair,
27 construction, content replacement, associated living expenses and property damage in the
28 amount of Two Million Eight Hundred Eighty- Three Thousand One Hundred Twenty- Five

1 Dollars and 65/100 (\$2,883,125.65), together with costs, interest, expenses and reasonable
2 attorneys' fees allowed by law.

3
4 **THIRD CAUSE OF ACTION**

5 **(Breach of Implied Warranties against DEFENDANTS NIBCO, WESTERN NEVADA**
6 **SUPPLY and DOES 1 through 25, and Each of Them)**

7 34. Plaintiff incorporates by reference the allegations of paragraphs One (1) through
8 Thirty-Three (33) of this Complaint as though fully set forth herein.

9 35. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of
10 them, were in the business of advertising, promoting, importing, selling, manufacturing, selling,
11 supplying, servicing, and/or distributing consumer products such as water valves and their
12 component parts to the general public, including the VALVE.

13 36. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of
14 them, knew or had reason to know that the INSUREDS would rely on the skills and judgment of
15 the DEFENDANTS in its purchase and use of the VALVE and/or component parts.

16 37. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of
17 them, impliedly warranted that the VALVE and/or component parts were proper and fit for the
18 purposes intended.

19 38. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of
20 them, knew or had reason to know that the INSUREDS would use the VALVE and/or
21 component parts for their ordinary purpose.

22 39. The VALVE and/or component parts were not fit for ordinary purposes for
23 which such water valves and component parts are used and were defective, in that they caused
24 the INCIDENT and resulting loss as a result of defects as set forth herein.

25 40. DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of
26 them, were notified of the defective condition of the VALVE within a reasonable time after the
27 defects were determined.

28 41. As a direct and proximate cause of the breach of said implied warranties by

1 DEFENDANTS NIBCO, WESTERN NEVADA and DOES 1 through 25, and each of them,
2 Plaintiff suffered damages, including costs of repair, construction, content replacement,
3 associated living expenses and property damage in the amount of Two Million Eight Hundred
4 Eighty- Three Thousand One Hundred Twenty- Five Dollars and 65/100 (\$2,883,125.65),
5 together with costs, interest, expenses and reasonable attorneys' fees allowed by law.

6
7 WHEREFORE, Plaintiff prays for judgment against all DEFENDANTS and each of them
8 as set forth below:

- 9 1. For monetary damages in an amount to be proven at trial, which may exceed Two
10 Million Eight Hundred Eighty- Three Thousand One Hundred Twenty- Five Dollars and 65/100
11 (\$2,883,125.65);
12 2. For prejudgment interest in accordance with California Civil Code § 3287;
13 3. For attorneys' fees and cost of suit; and
14 4. For such other relief as the Court deems just and proper.

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16
17 Dated this 14th day of December, 2019

GROTEFELD HOFFMANN

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21 David Kestenbaum
22 Attorneys for Plaintiff
23 AIG PROPERTY CASUALTY COMPANY
24 A/S/O KEVIN DOUGLAS AND
25 MICHELLE DOUGLAS
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